REMARKS

Claims 5, 7, 10-12, 16-18, 21-23 and 27-33 are pending in this application. Claims 5, 7, 10-12, 16-19, 21-23 and 27-33 have been rejected. Claims 27 and 28 have been amended. Support for this amendment is provided at page 3, lines 13-15 and page 5, lines 1-6. No new matter is added by these amendments. Reconsideration is respectfully requested in light of these amendments and the following remarks.

Rejection of Claims 5, 7, 10-12, 16-18, 21-23 and 27-33 under 35 U.S.C. § 103

Claims 5, 7, 10-12, 16-18, 21-23 and 27-33 stand rejected under 35 U.S.C. § 103 as being unpatentable over Int'l Application Pub. No. WO 99/02141 to Kamiyama ("Kamiyama") in view of U.S. Patent 5,532,373 issued to Matsumoto et al. ("Matsumoto").

Applicants respectfully traverse this rejection.

In an earnest effort to advance the prosecution of this case, Applicants have further amended the claims to recite in step (b) that the crosslinking reaction is substantially suppressed by the lower alcohol and to recite in step (d) that crosslinking occurs upon thermally removing the lower alcohol. This amendment is supported by teachings in the

specification for example at page 3, lines 13-15, and page 5, lines 1-6.

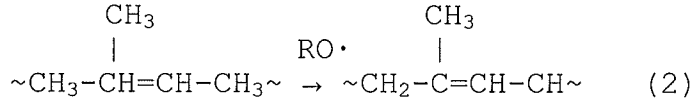
MPEP 2143.01 sets forth the rationale (recited by the Supreme Court in *KSR International Co. v. Teleflex Inc.*) to support a conclusion that a claim would have been obvious. It is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded nothing more than predictable results to one of ordinary skill in the art. *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1395 (2007); *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, 282, 189 USPQ 449, 453 (1976); *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57, 62-63, 163 USPQ 673, 675 (1969); *Great Atlantic & P. Tea Co. v. Supermarket Equipment Corp.*, 340 U.S. 147, 152, 87 USPQ 303, 306 (1950).

Neither Kamiyama nor Matsumoto teaches a process for the production of a medical patch wherein a lower alcohol solvent is used to substantially suppress cross-linking reaction during polymerization of the adhesive composition by dissolving the crosslinking agent in the lower alcohol solvent, and then removing the lower alcohol solvent by

heating thereby starting the cross-linking reaction after the forming of the patch. Accordingly, all the claimed elements were clearly **not** known in the cited prior art.

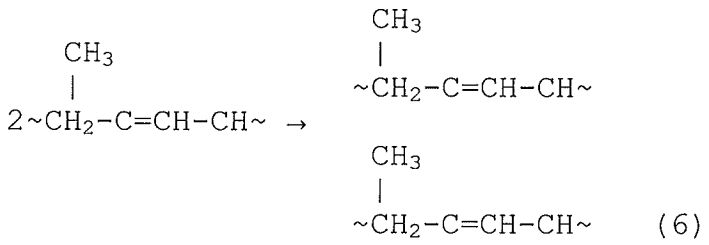
Further, Applicants respectfully disagree with the Examiner's suggestion that it would have been obvious to the skilled artisan to replace the peroxide curing system of Kamiyama with the boric acid curing system of Matsumoto et al. or to incorporate the boric acid curing to Kamiyama additionally to the peroxide curing system of Kamiyama. The suggested combination of replacing the peroxide curing system of Kamiyama with the boric acid curing system of Matsumoto et al. would **not** yield predictable results to one of ordinary skill in the art.

Peroxide initiators such as those used by Kamiyama are described in the "Handbook of crosslinkers", First Edition, Taiseisha Co. Ltd., October 1981, relevant pages of which were submitted to the USPTO on August 28, 2008. Another copy is being provided herewith. The Handbook of crosslinkers teaches in Section 3.2 that the initiation reaction by the radical produced by peroxide decomposition:



(2)

and the crosslinking reaction between the polymer radicals in the presence of peroxide is:



(6)

Teachings of the Handbook of crosslinkers make clear that the crosslinking reaction between polymer radicals cannot be carried out using boric acid, since the crosslinking reaction using boric acid shown in Section 14.2 of the Handbook occurs only under very limited conditions, i.e. in the presence of hydroxyl or carboxyl groups. See formula (3) of Section 14.2 of the Handbook.

Accordingly, the skilled artisan would not have been motivated to substitute the boric acid disclosed by Matsumoto for the peroxide of Kamiyama as it would not have been expected to produce crosslinking. Further, were boric acid substituted for the peroxide, the desired block copolymer of Kamiyama would not be obtained due to the lack of polymerization initiation. A polymer having free radicals cannot be crosslinked by boric acid. Accordingly the suggested substitution by the Examiner would have changed the respective functions of elements taught by Kamiyama and Matsumoto et al. and the end products, and the

suggested combination would have yielded unpredictable results to one of ordinary skill in the art.

Thus, the cited combination of art clearly fails to meet the rationale for obviousness set forth by the Supreme Court in KSR. See MPEP 2143.01.

Further, MPEP 2143.01 and the case law are clear; if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Clearly, since the block copolymer of Kamiyama is not obtainable upon substitution of boric acid for the peroxide polymerization initiator due to the inability of boric acid to crosslink polymers having free radicals, there can be no suggestion or motivation to make the proposed modification since the proposed modification would render the prior art invention of Kamiyama being modified unsatisfactory for its intended purpose.

Finally, MPEP 2141.01(a) is clear regarding analogous art; a reference in a field different from that of applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, **logically** would have commended itself to an inventor's

attention in considering his or her invention as a whole (emphasis added). The Field of Invention of Matsumoto makes clear that their invention relates to image forming materials useful in the fields of copiers, facsimilies, printers, labels, color proofs, overhead projectors and copies of original drawings. The matter with which Matsumoto deals does not **logically** commend itself to the attention of inventors in the field of medical patches. In Ex Parte Ralph Kurt, Appeal 2007-4172, the Board made clear; prior art outside the field of the related art cannot be used to cure the deficiencies of other prior art. The suggest combination of Kamiyama and Matsumoto as rendering the instant claimed invention obvious is therefore improper.

For all the above reasons, withdrawal of this rejection under 35 U.S.C. 103(a) is respectfully requested.

Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,

Kathleen A. Tyrrell
Reg. No. 38,350

Date: **June 15, 2009**

LICATA & TYRRELL P.C.
66 E. Main Street
Marlton, New Jersey 08053

(856) 810-1515